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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,905	12/31/2003	Vincent Roy	I-2-0521.1US	1420

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PHILADELPHIA, PA 19103

EXAMINER

SOBUTKA, PHILIP

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 12/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/749,905

Applicant(s)

ROY ET AL.

Examiner

Philip J. Sobulka

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 9-12 is/are allowed.
- 6) ☐ Claim(s) 1,2 and 6-8 is/are rejected.
- 7) ☐ Claim(s) 3-5 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,2,8 are rejected under 35 U.S.C. 102(b) as being anticipated by Werth (US 5,920,547).

Consider claim 1. Werth teaches a method for reusing timeslots designated for transmission of control information for user traffic the method comprising the steps of: identifying timeslots designated for transmission of control information within a wireless communication system and allocating the timeslots designated for transmission of control information so that neighboring cells do not transmit control information in the same timeslot (Werth col 1, lines 23-50); and reusing the timeslots designated for transmission of control information that are not being used for transmission of control information for user traffic (Werth col 1. lines 60-65).

As to claims 2, 8, note that since the channel is available for reallocation, it is a common physical channel.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 6,7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Werth (US 5,920,547).

As to claims 6,7, Werth lacks a teaching of the channel being a primary or secondary control channel. Official Notice is taken that primary and secondary control channels are well known in the art. Therefore, since the channel is available for control it would have been obvious to one of ordinary skill in the art to utilize the channel for primary or secondary use as the system application warranted.

Allowable Subject Matter

6. Claims 9-12 are allowed.

7. Claims 3-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Consider claim 3, the nearest prior art as shown in Werth fails to teach the method of claim 1 further comprising reducing the power with which a first cell reuses a CPCH timeslot for user traffic where the reuse causes degradation to CPCH reception in a second cell using said CPCH timeslot for transmission of control information.

As to claim 4, the nearest prior art as shown in Werth fails to teach the method of claim 1 wherein a first cell is identified as a cell causing degradation to CPCH reception in a second cell by locating an area within the second cell in which wireless transmit receive units have reported poor CPCH reception and poor CPCH reception in the area indicates interference from the second cell.

Consider claim 9, the nearest prior art as shown in Werth fails to teach a system comparing a plurality of wireless transit receive units configured to report performance measurements regarding the quality with which they receive control information; at least one base station configured to receive the performance measurements provide by the units and obtain the location of each unit reporting the performance measurements and a radio network control configured to identify base station whose reuse of timeslots designated for transmission of control information is degrading reception of control information at another base station and adjust the power with which the base stations are reusing the timeslots.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Grube et al (US 5,239,678) and Cerwall et al (US 6,272,352) have been cited to show other arrangements for assigning control channels as traffic channels.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip J. Sobutka whose telephone number is 703-305-4825. The examiner can normally be reached on Monday-Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 703-308-7745. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Philip Sobutka
(703) 305-4825

December 17, 2004


NAY MAUNG
SUPERVISORY PATENT EXAMINER